PALMER & DODGE LLP

ONE BEACON STREET, BOSTON, MA 02108-3190

KENNETH W. SALINGER
(617) 573-0561
ksalinger@palmerdodge.com

TELEPHONE: (617) 573-0100
FACSIMILE: (617) 227-4420

October 5, 2001

By Messenger

Mary Cottrell, Secretary
Department of Telecommunications and Energy
Commonwealth of Massachusetts
One South Station
Boston, MA 02110

Re: D.T.E. 01-20 – AT&T's Pending Motions

Dear Secretary Cottrell:

I write to respond briefly to the baseless assertion made by Verizon in its October 2, 2001, letter to the Department regarding AT&T's pending motions. Verizon argues that its objections to discovery requests are entirely different from the objections previously made by AT&T and overruled on Verizon's motion, because Verizon has objected to discovery on the ground of burdensomeness whereas AT&T had purportedly objected "based solely on the relevance of the information sought by Verizon MA and the alleged proprietary nature of the material." Verizon asserts that the Department's August 31st Order "did not address the issue of burden because that was not the basis of AT&T's objection."

This contention is, in a word, false. In fact, AT&T expressly objected to many of Verizon's information requests on the ground that they were unduly burdensome. Specifically, AT&T lodged this objection with respect to many of Verizon's questions seeking information regarding: (i) the AT&T network (VZ-ATT 1-38, 1-39, 1-70 through 1-79, 1-131, 1-135, and 2-1); and (ii) prior versions of the HAI Model (VZ-ATT 1-65, 1-66, 1-68 and 1-80). *See August 31 Order*, at Appendix A.

AT&T not only asserted burdensomeness as an objection, but it also affirmatively argued that it should not be ordered to provide information where the burden of doing so would be excessive. AT&T made this point both in its July 12, 2001, Opposition to Verizon's Motion to Compel and again in its August 17, 2001 Opposition to Verizon's Appeal from the Hearing Officer's Ruling on Verizon's Motion to Compel. *See AT&T's Opposition to Verizon's Motion to Compel* at 4-8 (July 12, 2001); *AT&T's Opposition to Verizon's Appeal from the Hearing Officer's Ruling on Verizon's Motion to Compel*, at 1-3, 6-7 (August 17, 2001).

Thus, Verizon's attempt to distinguish its discovery objections from those lodged by AT&T but overruled by the Department is based on a patently false premise. When AT&T asserted and argued that some of Verizon's discovery requests were unduly burdensome,

Verizon made no assertion or showing that the requests were not burdensome but instead argued that potential relevance is the only standard for obtaining discovery. The Department agreed. Verizon's objections are indistinguishable from those raised in good faith by AT&T but overruled by the Department.

Finally, Verizon complains that AT&T's surreply briefs are "unauthorized" and "should be ignored by the Department." When Verizon appealed to the Department from the Hearing Officer's ruling on Verizon's motion to compel, Verizon filed a surreply. Verizon filed its 11-page "Response Of Verizon Massachusetts To AT&T's Opposition To Verizon's Appeal From The Hearing Officer's Ruling" on August 24, 2001. AT&T is entitled to the same consideration. AT&T respectfully requests that the Department reject Verizon's plea that AT&T's arguments in its short surreply briefs "be ignored."

Thank you.

Very truly yours,

Kenneth W. Salinger

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